

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

RECEIVED
OCT 16 1 53 PM
UNITED STATES
DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

v.

HELEN KRAMER, AMERICAN CAN COMPANY,
AMERICAN CYANAMID COMPANY, COLE STEEL
OFFICE MACHINES, INC., CONTINENTAL
CAN COMPANY, E.I. DUPONT DE NEMOURS
& CO., INC., GENERAL METALCRAFT,
INCORPORATED, THE GILBERT SPRUANCE
PAINT COMPANY, ICI AMERICAS,
INCORPORATED, MARVIN JONAS, MARVIN
JONAS, INCORPORATED, RICK A.
LICCIARDELLO, d/b/a/ LICCIARDELLO
SANITATION COMPANY, ALBERT J. MITCHELL,
d/b/a MITCHELL WASTE REMOVAL, MONSANTO
COMPANY, N.L. INDUSTRIES, INC.,
NVF COMPANY INCORPORATED, OLIN
CORPORATION, POLYREZ CHEMICAL DIVISION
OF ATOCHEM, INC., ROHM & HAAS COMPANY,
INC., UNISYS CORPORATION, THIOKOL
CORPORATION, and W.R. GRACE & CO., INC.,

Defendants.

240095

CIVIL ACTION NO.

89-4340 (JFG)

COMPLAINT

The United States of America, by and through the undersigned attorneys, by authority of The Attorney General of the United States and at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges that:

STATEMENT OF THE CASE

1. This is a civil action for declaratory relief and recovery of costs brought pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability

RECEIVED

JAN 29 1990

Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. § 9607. The United States seeks to recover costs expended, and to be expended, in response to the release or threat of release of hazardous substances into the environment at a 77-acre site located in Mantua Township, Gloucester County, New Jersey known as the Helen Kramer Landfill Site ("Site"). The United States also requests declaratory judgment on the liability of the named defendants for all releases or threatened releases of hazardous substances which have occurred, or will occur, at the Site.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Sections 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(b), and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this district pursuant to Sections 106(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9606(a) and 9613(b), and 28 U.S.C. § 1391(b) and (c), because the claims arose and the threatened and actual release of hazardous substances that give rise to these claims occurred in this judicial district.

DEFENDANTS

4. Defendant American Can Company is a New Jersey corporation.

5. Defendant American Cyanamid Company, Incorporated, is a Maine corporation.

6. Defendant Cole Steel Office Machines, Inc., is a Pennsylvania corporation.

7. Defendant Continental Can Company is a Delaware corporation.

8. Defendant E.I. DuPont De Nemours, & Company, Inc., is a Delaware corporation.

9. Defendant General Metalcraft, Incorporated, is a Pennsylvania corporation.

10. Defendant The Gilbert Spruance Paint Company is a Pennsylvania corporation.

11. Defendant ICI Americas, Incorporated, is a Delaware corporation.

12. Defendant Marvin Jonas' last known residence and principal place of business was in the State of New Jersey.

13. Defendant Marvin Jonas, Incorporated is a New Jersey corporation.

14. Defendant Helen Kramer is a resident of the State of New Jersey.

15. Defendant Rick A. Licciardello is a New Jersey resident doing business as Licciardello Sanitation Company at 345 Nottingham Road in Woodbury, New Jersey.

16. Defendant Albert J. Mitchell is a New Jersey resident doing business as Mitchell Waste Removal at 330 North Woodbury Road in Pitman, New Jersey.

17. Defendant Monsanto Company, Incorporated, is a Delaware corporation.

18. Defendant N.L. Industries, Incorporated, is a New Jersey corporation.

19. Defendant NVF Company, Incorporated, is a Delaware corporation doing business as National Vulcanized Fiber Company.

20. Defendant Olin Corporation is a Virginia corporation.

21. Defendant Polyrez Chemical Division of Atochem, Incorporated is a Delaware corporation.

22. Defendant Rohm & Haas Company, Incorporated, is a Delaware corporation.

23. Defendant Thiokol Corporation, a Delaware corporation, is the successor to Morton Thiokol, Incorporated.

24. Defendant Unisys Corporation is a Delaware corporation. Unisys Corporation was formed by the merger of Burroughs Corporation and Sperry Corporation. Sperry New Holland Division was a division of Sperry Corporation.

25. Defendant W. R. Grace & Company, Incorporated, is a Connecticut corporation. The Dewey & Almy Chemical Division is a division of W. R. Grace & Company, Incorporated.

THE SITE

26. The Site occupies approximately 77 acres of which 66 acres were used for landfill operations. The Site is located in Mantua Township, Gloucester County, New Jersey.

27. From approximately 1963 to 1981, hazardous substances were accepted for disposal at the Site. During this time, industrial wastes were discharged to the surface soil at the Site.

28. On September 8, 1983, the Site was placed on the National Priorities List, 40 C.F.R. Part 300, Appendix B, which is a national list of hazardous waste sites posing the greatest threat to health, welfare and the environment. The National Priorities List is established pursuant to Section 105(a) of CERCLA, 42 U.S.C. § 9605(a).

29. Pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, in July of 1983 EPA began a Remedial Investigation and Feasibility Study ("RI/FS") at the Site to investigate the nature and extent of contamination at the Site and to investigate remedial alternatives. The RI/FS was completed in September 1985.

30. The RI/FS demonstrated that soil at the Site is contaminated with hazardous substances including but not limited to arsenic, lead, mercury, toluene, methyl ethyl ketone, methyl isobutyl ketone and ethylbenzene.

31. The RI/FS demonstrated that surface waters at the Site are contaminated with hazardous substances including but not limited to chloroform, 1,1,2-trichloroethane, 1,1-dichloroethene, methylene chloride, 1,2-dichloroethane, 1,1,2,2-tetrachloroethane, tetrachloroethene and benzene. Each of these chemicals is carcinogenic.

32. Air sampling conducted from October 31, 1983 to November 2, 1983, demonstrated that air above the Site is contaminated with hazardous substances including but not limited to ethylene dibromide, benzene, 1,1,2-trichloroethene, tetrachloroethylene, chloroform, 1,1,2,2-tetrachloroethane, and methylene chloride. These chemicals are carcinogenic.

33. The RI/FS demonstrated that leachate and groundwater at the Site is contaminated with hazardous substances including arsenic, benzene, cadmium, lead, vinyl chloride, tetrachloroethene, trichloroethene, 1,1-dichloroethane and 1,1,1-trichloroethane.

CLAIM FOR RELIEF

34. Paragraphs 1-33 are realleged and incorporated herein by reference.

35. The Site is a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

36. Hazardous substances, within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), have been treated, stored or disposed of at the Site.

37. There were and are releases, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and the threat of continuing releases of hazardous substances into the environment at the Site.

38. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides, in pertinent part:

- (1) the owner and operator of a vessel . . . or a facility,

(2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of, . . .

(3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility . . . owned or operated by another party or entity and containing such hazardous substances, and

(4) any person who accepts or accepted any hazardous substances for transport to disposal . . . facilities or sites selected by such person, from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for--

(A) all costs of removal or remedial action incurred by the United States Government or a State not inconsistent with the national contingency plan. . . .

39. Defendant Helen Kramer is liable under CERCLA Sections 107(a)(1) and 107(a)(2), 42 U.S.C. §§ 9607(a)(1) and 9607(a)(2), as a person who is, and at the time of the disposal of hazardous substances at the Site was, the owner or operator of the Site within the meaning of Section 101(20)(A) of CERCLA, 42 U.S.C. § 9601(20)(A).

40. Defendants Marvin Jonas and Marvin Jonas, Inc. are liable under CERCLA Section 107(a)(2), 42 U.S.C. § 9607(a)(2), as persons who operated the Site at the time of the disposal of hazardous substances at the Site, within the meaning of Section 101(20)(A) of CERCLA, 42 U.S.C. § 9601(20)(A).

41. Defendants American Can Company, American Cyanamid Company, Inc., Cole Steel Office Machines, Inc., Continental Can Company, E.I. DuPont De Nemours & Co., Inc., General Metalcraft,

Inc., The Gilbert Spruance Paint Company, ICI Americas, Incorporated, Monsanto Co., Inc., N.L. Industries, Inc., NVF Company, Inc., Olin Corporation, Polyrez Chemical Division of Atochem, Inc., Rohm & Haas, Company, Inc., Thiokol Corporation, Unisys Corporation and W.R. Grace & Company are each liable under CERCLA Section 107(a)(3), 42 U.S.C. § 9607(a)(3), as persons who by contract, agreement, or otherwise arranged for disposal or treatment or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at a facility owned or operated by another party or entity and containing such hazardous substances.

42. Defendants Marvin Jonas, Marvin Jonas, Inc., Rick A. Licciardello, d/b/a Licciardello Sanitation Company, and Albert J. Mitchell, d/b/a Mitchell Waste Removal are each liable under Section 107(a)(4) as persons who accepted hazardous substances for transport to disposal or treatment at the Site.

43. The United States has incurred "response costs" of at least \$2,000,000, plus interest, and will continue to incur "response costs" as defined in Sections 101(25) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(25) and 9607(a), to respond to the release or threatened release of hazardous substances at the Site.

44. The response costs incurred by the United States in response to the release or threatened release of hazardous substance at the Site are not inconsistent with the National

Contingency Plan, which was promulgated pursuant to Section 105(a) of CERCLA, 42 U.S.C. § 9605(a) and codified at 40 C.F.R. Part 300.

45. The United States has satisfied any conditions precedent to the undertaking of response actions, the incurrence of response costs and the recovery of those costs under Section 107 of CERCLA, 42 U.S.C. § 9607.

46. Each defendant is jointly and severally liable to the United States for all response costs, including the costs of removal and remedial actions, incurred or to be incurred at or relating to the Site. The United States reserves the right to amend this complaint or to file a separate action, as authorized by Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), against the defendants named in this complaint and any other potentially responsible parties under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to recover further response costs incurred, or to be incurred, at the Site.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, prays that the Court:

1. Award the United States a judgment against the defendants, jointly and severally, for all response costs, including interest, incurred by the United States in connection with the Site;


2. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 113(g)(2), and 28 U.S.C. § 2201, award the United States a

declaratory judgment that the defendants are jointly and severally liable for all present and future releases and threatened releases of hazardous substances at the Site;

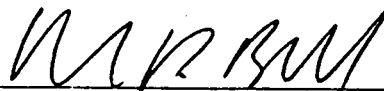
3. Award the United States its costs and fees in this action; and

4. Grant such other and further relief as is appropriate.

Respectfully submitted,



RICHARD B. STEWART
Assistant Attorney General
Land and Natural Resources Division
United States Department of Justice
Washington, D.C. 20530



BERNARD P. BELL
Trial Attorney
Environmental Enforcement Section
Land and Natural Resources Division
United States Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20350
(202) 633-3483

SAMUEL A. ALITO
United States Attorney
District of New Jersey

By:



LOUIS J. BIZZARRI
Assistant United States Attorney
District of New Jersey
401 Market Street, Fifth Floor
Camden, NJ 08101
(609) 757-5412

OF COUNSEL:

Rudolph S. Perez
Assistant Regional Counsel
U.S. Environmental Protection Agency
26 Federal Plaza
New York, NY 10278